

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

Misc. Application No. 15664 of 2006

In

Writ Petition No. 5926 (SS) of 2001
(Old No. 11355 of 1991)

Nirankar Misra,
S/o Sri Jagdish Prasad Misra,
R/o near Santa Yog Ashram,
Rampur Road, Haldwani,
District- Nainital.

.....Petitioner.

Versus

1. Manager, H.N. Inter College, Haldwani, Nainital.
2. District Inspector of Schools, Nainital.
3. Principal, H.N. Inter College, Haldwani, Nainital.

.....Respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Manoj Tiwari, learned counsel for respondents no. 1 and 3 and Sri Subhash Upadhyay, learned Brief Holder for respondent no. 2 is present. No one is present on behalf of the petitioner.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

1. *to issue the writ, order or direction in the nature of Mandamus directing the respondents to permit the petitioner to continue on the post of Lecturer Physics.*
2. *to issue the writ, order or direction in the nature of Mandamus directing the respondents to pay the fully salary of the petitioner.*

3. *to issue the writ, order or direction in the nature of Mandamus directing the respondents to regularize the appointment of the petitioner.*
4. *to issue any other writ, order or direction or grant such other and further relief as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.*
5. *an order for costs in favour of the petitioner.*

On 18.04.1991, the Allahabad High Court passed following order:

"Issue notice. Until further orders of this court respondents are restrained from interfering with the working of the petitioner as Lecturer (Physics) till regularly selected candidate joins or petitioner's services are terminated in accordance with law."

Short counter affidavit has been filed by respondent nos. 1 and 3 with prayer to dismiss the writ petition as infructuous. Respondents have submitted in the short counter affidavit that petitioner was appointed as Lecturer (Physics) on adhoc basis vide order dated 23.10.1990. The said appointment was made for the period till 30.04.1991 or till joining of regularly selected candidate. Since the appointment of the petitioner was made up to 30.04.1991 the service of the petitioner automatically came to an end on this date. Feeling aggrieved with this, petitioner filed present writ petition before Allahabad High Court on which Allahabad High Court passed stay order on 18.04.1991.

The petitioner was subsequently selected for the post of Assistant Teacher and joined his duties in the said capacity in Government Higher Secondary School, Sripur Bichwa, District-Udham Singh Nagar on 14.09.1991. Petitioner also moved an

application to the Manager, H.N. Inter College, Haldwani, District – Nainital for his relieving so that he may join Government Higher Secondary School, Sripur Bichwa, District – Udham Singh Nagar. Pursuant to the said request, petitioner was relieved from H.N. Inter College and thereafter, he is not serving in the respondents institution.

In view of the above, Misc. Application No. 15664 of 2006 is allowed. Writ petition is dismissed as infructuous.

(M.M. Ghildiyal, J)

February 13, 2007
SKSharma